

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 31024 of 2007(R)

PETITIONER:

**A.M.KASSIM,
PRESIDENT, PANACODE SERVICE CO-OPERATIVE BANK
LTD., PANACODE, THIRUVANANTHAPURAM - 695 542.**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

**1. THE STATE CO-OPERATIVE ELECTION
COMMISSION, THIRUVANANTHAPURAM, REPRESENTED BY
THE SECRETARY.**

**2. THE RETURNING OFFICER,
PANACODE SERVICE CO-OPERATIVE BANK LTD.,
PANACODE, THIRUVANANTHAPURAM-695 542.**

BY GOVT. PLEADER SMT.ANU SIVARAMAN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K. M. JOSEPH, J.

W.P.C. No. 31024 OF 2007

Dated this the 19th day of October , 2007

JUDGMENT

Petitioner is the President of the Managing Committee of Panacode Service Co-operative Bank. It is stated that there are 8000 members and the election is scheduled to be held on 20/10/2007. Petitioner has approached this court praying for a direction to respondents to provide video graphing of the voting in all polling booths and ensuring the issuance of ballot papers strictly in accordance with the Rules after verifying the Form 6B Register and ensuring that the ballot papers are issued to the members for whom the identity cards are issued by the society. According to the petitioner, Ext.P1 notification was published on 14/09/2007. It is stated that the society is presently controlled by members having political allegiances to Indian National Congress and the UDF and there are two panels, one supported by the UDF and the other supported by LDF. It is stated that steps were taken by the workers having political allegiance to LDF to postpone the polling under one pretext or other. It is stated that the nomination papers

submitted by the UDF candidates were rejected and the rejection of the nomination papers by the Returning Officer was on the basis of some alleged dues of about 30 years back from a co-operative society for which there was no notice or decree. It is stated that the situation in and around the society is tense as a result of the direct involvement of a Minister in the State Cabinet to capture the power. Petitioner gave Ext.P2 complaint to the Superintendent of Police. It is stated that the petition seeking police protection is pending before this Court. Thereafter petitioner came to know of the action of the LDF candidates to capture the power by resorting to unethical methods. Therefore petitioner gave a request to the second respondent on 11/10/2007 seeking permission to video-graph the polling and related matters at the polling booths and polling station. It is stated the second respondent refused to accept the said request. Therefore the petitioner sent Ext.P3 request by registered post which was received by the second respondent on 16/10/2007 and it is stated that no decision has been taken thereon.

2. I heard learned counsel for the petitioner and also the learned Government Pleader .

3. Learned Government Pleader on instructions submits

that the election is to be held on 20/10/2007, namely tomorrow. It is also pointed out that the Rules do not provide video-graphing and there is no tense situation.

4. I note that petitioner has approached this court only on the eve of the election. Even though I am not *prima facie* very impressed by the argument of the learned Government Pleader that relief should be refused on the ground that Rules do not provide for video-graphy, I find some merit in the contention that the petitioner has approached this court late. No doubt, petitioner would point out that the election became inevitable only on 06/10/2007 as on which date final list of candidates was published. Petition was given on 11/10/2007 by the petitioner. I would still think that apart from everything, at this juncture, to countenance the claim of the petitioner may not be proper.

Needless to say the Polling Officers are duty bound to act in accordance with the Rules. Learned Government Pleader submits that as far as the prayer of the petitioner regarding the issuance of the ballot papers being strictly in accordance with the Rules cannot be refused. Accordingly, while refusing the prayer for allowing video-graphing, having regard to the circumstances of this case,

there will be a direction to the second respondent to ensure that the issuance of ballot papers will be strictly in accordance with the Rules. It is ordered that if the agents of the candidates challenge the identity of any voter, the second respondent and the Polling Officers under him will refer to Form 6B Register in taking a decision in accordance with law in the matter.

The writ petition is disposed of as above.

K. M. JOSEPH, JUDGE

SV.